

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

ELIZABETH D. LOFTUS,

Plaintiff,

v.

CIVIL ACTION NO. 2:04-0449

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court grant the *Plaintiff's Motion for Judgment on the Pleadings or in the Alternative Motion for Remand for Consideration of New Material Evidence* [Docket 9] to the extent she seeks remand pursuant to sentence four of 42 U.S.C. § 405(g) and otherwise deny the plaintiff's motion; deny the defendant's motion for judgment on the pleadings; reverse the final decision of the Commission; remand the case for further proceedings; and dismiss the matter for the court's docket.


Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge. The court **GRANTS** the *Plaintiff's Motion for Judgment on the Pleadings or in the Alternative Motion for Remand for Consideration of New Material Evidence* [Docket 9]

to the extent she seeks remand pursuant to sentence four of 42 U.S.C. § 405(g) and otherwise **DENIES** the plaintiff's motion; **DENIES** the defendant's motion for judgment on the pleadings; **REVERSES** the final decision of the Commissioner; **REMANDS** this case for further proceedings consistent with the Magistrate Judge's findings and recommendation; and **DISMISSES** this action for the docket of the court.

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: September 8, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE